IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.MC.No. 3276 of 2007()

(AGAINST CRIME NO.01/07 OF NOORANAD EXCISE RANGE)

PETITIONER:

RAMACHANDRAN, S/O. VELUMBI, PALAVILAYIL VEEDU, ERUMAKUZHI MURI, PALAMEL VILLAGE, MAVELIKARA TALUK.

BY ADV. SRI.RASHEED C.NOORANAD

RESPONDENT: RESPONDENT:

STATE OF KERALA REP. BY PUBLIC PROSECUTOR HIGH COURT OF KERALA

BY PUBLIC PROSECUTOR SRI. JIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J.

Crl.M.C.No.3276 of 2007

Dated this the 25th day of October 2007

O R D E R

The petitioner faces indictment in a prosecution under the provisions of the Kerala Abkari Act. The petitioner was allegedly found to keep in his possession five litres of arrack when he was intercepted by the excise officials. He allegedly ran away and could not be arrested. Investigation is now complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. Committal proceedings has been registered. Summons has been issued to the petitioner. The petitioner has received summons and is willing to appear before the learned Magistrate.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He is a leprosy patient. The allegations against him are totally unjustified. The petitioner is willing to appear before the learned Magistrate. But he apprehends that notwithstanding the fact that summons has been issued to him by the learned Magistrate, the learned Magistrate may remand him to custody when he appears before the learned Magistrate in response to the summons issued to him. He, therefore, prays that directions under Section 438 and/or 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and seek regular bail. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1)KLT 339].

4. I must note that the learned Magistrate has already exercised his discretion under Section 204 Cr.P.C to issue only a summons and not a warrant. The decision in Sukumari v. State of Kerala [2001(1)KLT 22]) will have to be strictly adhered to while considering the application for bail to be filed by the petitioner.

5. In the result, this Crl.M.C is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007